

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JUSTIN WRIGHT, #1949550,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:21-cv-280-JDK-KNM
	§	
TDCJ-CID DIRECTOR, et al.,	§	
	§	
Defendants.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Justin Wright, a prisoner of the Texas Department of Criminal Justice (TDCJ) proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On March 21, 2023, Judge Mitchell issued a Report recommending that Plaintiff's claims against Defendant Petty—the sole remaining Defendant in this case—be dismissed for failure to effect timely service of process. Docket No. 137. A copy of this Report was mailed to Plaintiff, who received it on April 11, 2023, but he did not file written objections to the Report. Docket No. 138.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 137) as the findings of this Court. This case is **DISMISSED** without prejudice for failure to effect timely service. Because Plaintiff's complaint includes events dating to 2020, the statute of limitations in this case is suspended for sixty days from the entry of judgment. *See Campbell v. Wilkinson*, 988 F.3d 798, 801 n.1 (5th Cir. 2021) (explaining that "[w]here further litigation of [a] claim will be time-barred, a dismissal without prejudice is no less severe a sanction than a dismissal with prejudice, and the same standard of review is used"). All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **22nd** day of **May, 2023**.


 JEREMY D. KERNODLE
 2 UNITED STATES DISTRICT JUDGE